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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*
BRIAN A. BENCKOWSKI, *Republican Staff Director*

December 23, 2009

2080

Chairman Julius Genachowski
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Mr. Chairman,

We are writing as part of an ongoing effort to promote robust broadband competition that we believe will benefit millions of Americans. It is our belief that, in recent years, the policies of the Federal Communications Commission may have been able to do more in the broadband arena to foster competition in the interest of U.S. consumers. As you begin your term at the head of the FCC, we believe there are new opportunities for improvement in this area.

It is clear that, in virtually every industry, vigorous competition serves the public interest. That being as true with regard to telecommunications markets as any others, communications mergers should receive adequate scrutiny to ensure they will not harm competition. In addition we believe that regulators should be discouraged from imposing barriers on new competitors in these markets. Indeed, both the Communications Act and our nation's antitrust laws were designed to foster such competition in order to better serve consumers in the marketplace.

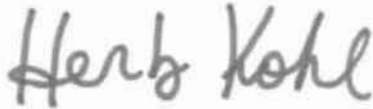
Rather than leaving it to the Department of Justice to address market failures after the fact, we believe the FCC should readily use its ample authority to promote new entry and increased competition in the broadband market. In particular, as the new FCC Chairman, you have an opportunity to allocate spectrum in a manner that promotes increased broadband competition, which we believe will subsequently lead to increased affordability for broadband customers. By promoting broadband competition, we can avoid the need for a more heavy-handed regulatory approach as additional competition will do far more to discipline the marketplace than new FCC mandates.

Specifically, page 74 of the interim report from the FCC staff working on the National Broadband Plan identifies three specific spectrum bands that are in the FCC's inventory but have not yet been allocated or assigned. Although the demand for additional spectrum is growing and the National Broadband Plan is charged with developing a comprehensive plan for identifying future allocations of broadband spectrum, we believe that spectrum already in the hands of the FCC should be quickly put into service in order to benefit the maximum amount of consumers. Therefore, we ask that you provide information as to how and when the FCC plans to put these particular bands to use. For the reasons enumerated above, we also ask you to consider how all

future spectrum allocations can be used to promote new entry and increased broadband competition.

Thank you for your attention regarding this matter.

Sincerely,

Handwritten signature of Herb Kohl in cursive script.

HERB KOHL
Chairman, Subcommittee on Antitrust
Competition Policy, and Consumer Rights

Handwritten signature of Orrin G. Hatch in cursive script.

ORRIN G. HATCH
Ranking Member, Subcommittee on
Antitrust, Competition Policy, and
Competition Rights



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

April 22, 2010

The Honorable Orrin G. Hatch
Ranking Member
Subcommittee on Antitrust, Competition Policy
and Consumer Rights
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Hatch:

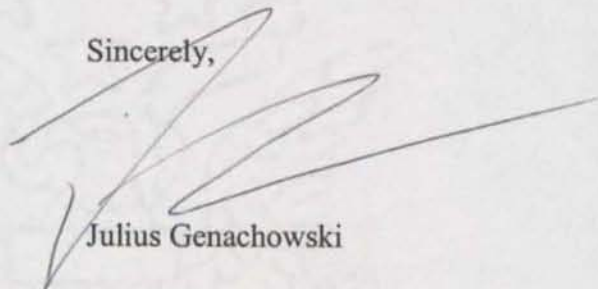
Thank you for your letter regarding the need for robust competition for broadband services. I agree that competition drives innovation and investment, and provides consumer benefits such as improved broadband services. I also agree that the Commission should take steps to ensure that spectrum is being used – by established firms and new entrants alike – in a productive and efficient manner that will encourage the development of innovative, market-driven products.

Mobile broadband is central to our mission at the Commission. No sector of the communications industry holds greater potential to enhance America's economic competitiveness, spur job creation, and improve the quality of our lives. To achieve this potential, however, we must address one of the biggest challenges to the development of competitive broadband services, the limitation on available spectrum. The National Broadband Plan, which was delivered to Congress on March 16, 2010, presents multiple recommendations for allocating spectrum to meet consumers' needs for wireless broadband services. I am enclosing a copy of the Plan for your information.

As you note in your letter, the Commission has open proceedings for three sets of spectrum bands: (1) the 700 MHz Upper D Block in the 758-763 MHz and 788-793 MHz bands; (2) Advanced Wireless Service (AWS) in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz, and 2175-2180 MHz (AWS-2) bands; and (3) AWS in the 2155-2175 MHz (AWS-3) band. All of these spectrum bands have been identified by parties as possible sources for additional spectrum for the provision of mobile broadband service. As the National Broadband Plan indicates, these proceedings are being prepared for active consideration.

I appreciate your interest in this very important matter. Please let me know if I can be of any further assistance.

Sincerely,



Julius Genachowski

Enclosure



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

April 22, 2010

The Honorable Herb Kohl
Chairman
Subcommittee on Antitrust, Competition Policy
and Consumer Rights
Committee on the Judiciary
161 Dirksen Senate Office Building
Washington, DC 20510

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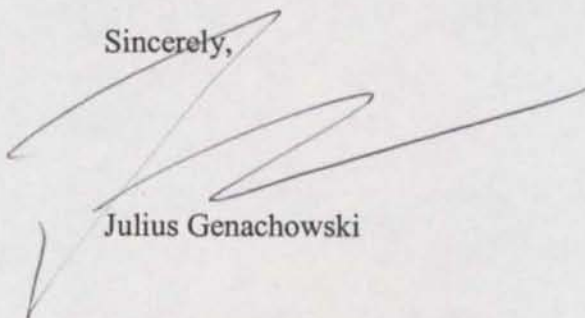
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